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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

215 Fremont Street
San Francisco, Ca. 94105

CERTIFIED MAIL NO. P574825083
Return Receipt Requested
In Reply: T-5-2
Refer to: TSCA-09-86-0036

December 15, 1986

Mr. Ward W. Waddell Jr.
Assistant General Counsel
General Dynamics Corporation
P.O. Box 85357
San Diego, California 93138

RECEIVED
REGIONAL HEARING CLERK

DEC 15 1986

REGION IX

Dear Mr. Waddell:

Enclosed is your copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with Mr. David Jones of the Office of Regional Counsel.

Your completion of all remedial actions enumerated in the Consent Agreement and Final Order will close this case. If you have any questions regarding the rules, regulations and statutes governing your operations which are implemented by the Agency or which govern the proceedings terminated by the enclosed document, please contact Cathy Cowley at 415-974-7295. (T-5-2)

Sincerely,

Davis Bernstein

for/ Jeff Zelikson
Acting Director
Toxics and Waste Management Division

Enclosure

cc: Mr. John McSweeney, General Manager
General Dynamics Corporation

DEC 15 1986

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In re:) Docket No. TSCA-09-86-0036
)
)
 GENERAL DYNAMICS CORPORATION,) CONSENT AGREEMENT
)
) AND
)
 Respondent.) FINAL ORDER

I

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 16(a) of the Toxics Substances Control Act, as amended (TSCA), [15 USC 2615(a)]. The action was instituted by a Complaint and Notice of Opportunity for Hearing (Complaint) issued on May 7, 1986. The Complaint charged General Dynamics Corporation (Respondent), with the violation of 40 C.F.R. §761.30(a)(1), §761.40(a)(10), §761.60(a)(1), §761.65(b)(iv), 761.65(c)(5), §761.180(a) and §761.180(b) and Section 15(1)(C) of T.S.C.A. [15 T.S.C.A. §2614(1)(c)] at the facility operated by Respondent located at 4297 Pacific Highway, San Diego, California. Complainant is

1 the United States Environmental Protection Agency (EPA),
2 Region 9.

3 II

4 Respondent and Complainant admit and agree that the
5 Regional Administrator, EPA Region 9, has jurisdiction of the
6 subject matter of the action set out in the Complaint and over
7 the parties thereto, pursuant to 16 USC 2615 and 40 CFR 22.04(a).

8 III

9 Respondent neither admits nor denies the specific factual
10 allegations set out in the Complaint. Respondent hereby waives
11 any rights which it may have to a hearing on any issues result-
12 ing from the Complaint. Complainant waives whatever rights it
13 may have to compel Respondent to answer or otherwise defend
14 the Complaint. Respondent consents to the issuance of this
15 Consent Agreement and Final Order without adjudication.

16 IV

17 Respondent consents to the assessment of a civil penalty
18 in the amount of TWENTY THOUSAND DOLLARS in lieu of the penalty
19 proposed in the Complaint of EIGHTY THOUSAND DOLLARS.

20 V

21 Respondent in executing this Consent Agreement and Final
22 Order, agrees that it will use its best efforts to come into
23 compliance with all applicable requirements of TSCA and the
24 implementing regulations particularly the following:

- 25 1. Respondent shall implement the requirements of
26 40 C.F.R. §761.30(a)(1)(iv) which requires the main-
27 tenance of certain records of inspection and
28 maintenance history pertaining to PCB Transformers
including the specific items of information as
enumerated in the regulation paragraphs (A) - (H).

2. Respondent shall implement the requirements of 40 C.F.R. §761.180(a) and (b) with respect to the maintenance of records including the annual document requirements for PCB Items in storage for use or disposal. Respondent shall submit to Complainant within thirty days after execution of this Consent Agreement the annual document format to be used in complying with this requirement.
3. Respondent shall mark all storage areas in accordance with the requirements of 40 C.F.R. §761.40 and §761.45.
4. Respondent shall undertake the necessary action to bring any facility used for PCB storage whether for use or disposal into full compliance with the applicable regulatory requirements.
5. Respondent shall clean-up all PCB leaks at the Facility whether identified in the Complaint or not, and dispose of clean-up materials in accordance with 40 C.F.R. 761.60(a).
6. Respondent shall provide Complainant within forty-five days after the execution of this Consent Agreement and Final Order by Respondent with a narrative description of Respondent's clean-up effort to date supported by documentation such as: identification of sample location, sample analysis results, verification sampling information, clean-up process, clean-up materials used, manifest of disposed materials (including transformers removed).
7. Respondent shall provide complainant within 45 days... plan for any future clean-up efforts which shall include by way of example the information set forth in item 6 above.

Respondent shall certify to Complainant no later than ninety days after execution of this Agreement by Respondent, 1) that the Facility is being operated in full compliance with TSCA and the implementing regulations and 2) the status of the tasks set forth in Items 1 - 7 above. In addition to the certifications required under the Article V with respect to clean-up as set out above, Respondent shall also indicate the dollar amount expended at the facility and site referred to in this Article V above.

1 In the event Respondent is unable to complete any of the task
2 to be completed prior to certification and within the time set
3 out above, Complainant will extend the time for performance
4 upon Respondent's written request, provided Respondent can
5 demonstrate to Complainant's reasonable satisfaction that
6 Respondent has used its best efforts to meet the time
7 limitation set forth herein.

8 Respondent shall submit to Complainant within ten consecu-
9 tive days after the end of each calendar quarter for a period
10 of four consecutive calendar quarters on and after the date of
11 execution this Agreement by Respondent, a complete report
12 which shall indicate the status of the projects set out as
13 Items 1 - 7 in this Article V above.

14 All submissions under this Consent Agreement and Final
15 Order shall be addressed as follows:

16 Richard E. Vaille, Chief
17 Toxics Section
18 Pesticides and Toxics Branch
19 Toxics and Waste Management Division
20 United States Environmental Protection Agency
Region 9
21 215 Fremont Street
22 San Francisco, CA 94105

23 Respondent hereby agrees that its failure to fulfill the
24 obligations as set forth in this Article V shall constitute an
25 additional violation of TSCA which may subject Respondent to
26 a penalty in the same amount as proposed in the Complaint.

27 / / /

28 / / /

/ / /

/ / /

Complainant and Respondent consent to the entry of this Agreement and Final Order without further notice.

November 17, 1986
Date

General Dynamics Corporation
Respondent

By W. H. Waddell
Assistant Secretary

12-5-86

Date

Davis Bernstein
for Jeffrey Zelikson
Acting Director,
Toxics and Waste Management
Division

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (Docket No. TSCA-09-86-0036) be entered and Respondent shall pay by cashier's check or certified check, made payable to the Treasurer, United States of America, and addressed as follows:

EPA - Region 9
Regional Hearing Clerk
P. O. Box 360863M
Pittsburgh, PA 15251,

a civil penalty in the amount of TWENTY THOUSAND DOLLARS. This order shall become effective immediately.

08 DEC 1986

Date

Judith E. Ayres
JUDITH E. AYRES
Regional Administrator,
EPA,
Region 9

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing Consent Agreement and Final Order Docket No. TSCA-09-8600036 was filed with the Regional Hearing Clerk, Environmental Protection Agency, Region 9, and that copies, addressed as follows, were served by mailing Certified Mail, Return Receipt Requested, postage prepaid, in a United States Mail Box, at the City and County of San Francisco, California, on the 15th day of December, 1986:

Honorable Spencer T. Nissen
Administrative Law Judge
Environmental Protection Agency
401 M Street, S.W.
Room 3706A, Waterside Mall
Washington, D.C. 20460

Certified Mail #
P000583430

Mr. John McSweeney
General Manager
General Dynamics Corporation
Box 85357
San Diego, CA 93138

Certified Mail #
P574825035

Mr. Ward W. Waddell, Jr.
Assistant General Counsel
General Dynamics Corporation
Box 85357
San Diego, CA 93138

Certified Mail #
P574825083

Dated at City and County of San Francisco, California, this
15th day of December, 1986.

Sue Durbin
Sue Durbin, Secretary
Pesticides and Toxics Branch
Toxics & Waste Management Division
EPA, Region 9